

**SUMMARIZED MINUTES  
SCOTTSDALE CITY COUNCIL  
MONDAY, JULY 10, 2006**



**CITY HALL KIVA  
3939 N. DRINKWATER BOULEVARD  
SCOTTSDALE, AZ 85251**

**CALL TO ORDER**

Mayor Manross called to order a Regular Meeting of the Scottsdale City Council on Monday, July 10, 2006 in the City Hall Kiva at 5:06 P.M.

**ROLL CALL**

Present: Mayor Mary Manross  
Vice Mayor Jim Lane  
Council Members Betty Drake, Wayne Ecton, Robert Littlefield,  
Ron McCullagh, and Tony Nelssen  
Also Present: City Manager Jan Dolan  
City Attorney Deborah Robberson  
City Clerk Carolyn Jagger

**PLEDGE OF ALLEGIANCE** - Councilman Nelssen

**INVOCATION** - None

**PRESENTATIONS/INFORMATION UPDATES** - Mayor Manross introduced students Rahel Berhe, Shyam Yekanath, and Joe Zimmerman, who will be attending the Sister Cities International Youth Summit on Global Citizenship in Washington, D.C.

**MINUTES**

SPECIAL MEETINGS  
June 20, 2006

REGULAR MEETINGS  
June 20, 2006

COUNCILMAN MCCULLAGH MOVED FOR APPROVAL OF THE SPECIAL AND REGULAR MEETING MINUTES OF JUNE 20, 2006. COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

**PUBLIC COMMENT**

**John Nichols**, 10450 E Desert Cove, 85259, urged voters to vote yes on Proposition 401. Mr. Nichols cited a news story, which he believes supports the conclusion that secondary impacts of sexually oriented businesses are detrimental to health, safety, and public welfare.

NOTE IN ACCORDANCE WITH PROVISIONS OF THE ARIZONA REVISED STATUTES THE SUMMARIZED MINUTES OF CITY COUNCIL MEETINGS ARE NOT VERBATIM TRANSCRIPTS. ONLY THE ACTIONS TAKEN AND DISCUSSION APPEARING WITH QUOTATION MARKS ARE VERBATIM. DIGITAL RECORDINGS OF CITY COUNCIL MEETINGS ARE ON FILE IN THE CITY CLERK'S OFFICE.

**George Knowlton**, 8701 E Valley View, 85250, complimented the Fire and Police departments on the Knox Box Program. The Knox boxes allow emergency personnel to enter homes of the elderly in emergency situations.

**Tim Montgomery**, 11820 N 109<sup>th</sup> St, 85259, urged the protection of Scottsdale's name and character by conducting a local awareness campaign regarding Phoenix's new zip code along the northern Scottsdale Road border, 85054, to ensure that Scottsdale captures the maximum retail tax dollars for its residents. Mr. Montgomery pointed out that Scottsdale's sales tax is 7.95%, versus 8.1% for Phoenix.

**Darlene Petersen**, 7327 E Wilshire Dr, 85257, requested a moment of silence to honor City of Scottsdale Detective Kirkham, who had recently passed away.

## **CONSENT AGENDA      ITEMS 1-19**

ITEM 19 WAS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.

### **1.      Ducati Scottsdale Conditional Use Permit**

**Requests:**

1. Approve a Conditional Use Permit for motorcycle sales on a 35,000 +/- square foot parcel located at 14880 N. Northsight Blvd. with Highway Commercial District (C-3) zoning.
2. Adopt Resolution No. 6944 affirming the Conditional Use Permit.

**Location:** 14880 N. Northsight Boulevard, Suite 101

**References:**

- Case 51-DR-2004, approval of the building in the commercial center
- Case 9-UP-2004, Conditional Use Permit approval of another motorcycle dealership in the commercial center
- Case 16-ZN-2002, rezoned property from C-2 to C-3 in 2002
- Case 60-DR-2001 #1 and #2, approval of the commercial center

**Staff Contact(s):** Frank Gray, General Manager Planning and Development Services, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

### **2.      DC Ranch Amended Development Standards**

**Requests:**

1. Approve amended development standards to the existing Planned Community District with comparable zoning of Planned Neighborhood Center and Industrial Park and an amendment to the Development Agreement governing DC Ranch. Affected parcels are located along Pima Road, and at 91<sup>st</sup> Street and Palo Brea Bend.
2. Adopt Ordinance No. 3687 affirming the amended development standards.
3. Adopt Resolution No. 6943 authorizing the Mayor to execute the Amended Development Agreement for DC Ranch No. 1989-074-COS-A4.

**Location:** Planning Units I and II along Pima Road

**References:** 57-ZN-1989#1-8, Development Agreement, DC Ranch Master Plans

**Staff Contact(s):** Frank Gray, General Manager Planning and Development Services, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

**3. Contract Renewal for Support of Non-Profit Papago Salado Association**

**Request:** Authorize Contract No. 2006-101-COS for \$25,000 in FY 2006-07, with the Papago Salado Association, Inc., to promote the Papago Salado region's destination and cultural heritage, to assist Scottsdale with coordinating Papago Salado improvement and enhancement projects with Salt River Project and the cities of Phoenix and Tempe, to identify and apply for grant funding and to involve citizens in various Papago Salado programs.

**Staff Contact(s):** Ed Gawf, Deputy City Manager, 480-312-4510, [egawf@scottsdaleaz.gov](mailto:egawf@scottsdaleaz.gov); Robert J. Cafarella, Preservation Director, 480-312-2577, [rcafarella@scottsdaleaz.gov](mailto:rcafarella@scottsdaleaz.gov)

**4. Transfer of Property to Scottsdale Training and Rehabilitation Services**

**Request:** Adopt Resolution No. 6890, which authorizes the City to transfer title of the property located at 7507 E. Osborn Road to Scottsdale Training and Rehabilitation Services (STARS), a non-profit agency, through a twenty-five (25) year agreement valued at \$765,250 (Agreement Nos. 2006-123-COS and 2006-126-COS).

**Related Policies, References:** City Council adopted Resolution No. 2013 authorizing the acquisition of the property located at 7507 E. Osborn Road. Resolution No. 6656 adopted the City of Scottsdale's Five-Year Consolidated Plan for eligible uses of CDBG funds for Fiscal years 2005/09.

**Staff Contact(s):** Debra Baird, Community Services General Manager, 480-312-2480, [dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov)

**5. Arizona State Department of Library, Archives and Public Records Library Services and Technology Act Grant**

**Request:** Adopt Resolution No. 6922, authorizing the Library Division of the Community Services Department to accept a 2006-2007 Library Services and Technology Act grant from the Arizona State Department of Library, Archives and Public Records for \$33,620 to be used for a consultant to reshape the volunteer program to benefit older transitioning adults, and appointing the Library Director to execute documents necessary for the acceptance and administration of the grant.

**Staff Contact(s):** Debra Baird, Community Services General Manager, 480-312-2480, [dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov); Rita Hamilton, Library Director, 480-312-7039, [rhamilton@scottsdaleaz.gov](mailto:rhamilton@scottsdaleaz.gov)

**6. Scottsdale Ranch Community Association Median Maintenance and Funding Reimbursement**

**Request:** Adopt Resolution No. 6897 authorizing Contract No. 2006-031-COS with Scottsdale Ranch Community Association for median maintenance and funding reimbursement.

**Related Policies, References:** The City continues to offer new developments the opportunity to upgrade their dedicated medians and rights-of-way, with the City paying the annual minimum maintenance cost. Other long-term existing agreements that are in place are with McCormick Ranch, McDowell Mountain Ranch, Gainey Ranch, and D.C. Ranch.

**Staff Contacts(s):** Debra Baird, Community Services General Manager, 480-312-2480, [dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov)

**7. Intergovernmental Agreement with Maricopa County to Provide Special Transportation Services**

**Request:** Adopt Resolution No. 6915 to authorize a one-year Intergovernmental Agreement (IGA) No. 2006-083-COS with Maricopa County for the provision of Special

Transportation Services (STS). The STS program has provided services to Scottsdale residents since 1987. Maricopa County STS staff projects they will provide 2,283 trips to City residents under the fiscal year 2006/07 contract at a cost of \$38,500.

**Related Policies, References:** IGA No. 2006-083-COS; City Procurement Code

**Staff Contact(s):** Mary O'Connor, Transportation General Manager, 480-312-2334, [moconnor@scottsdaleaz.gov](mailto:moconnor@scottsdaleaz.gov)

**8. Intergovernmental Agreement with the City of Phoenix for Reimbursement of Eligible Expenditures under Federal Transit Administration (FTA) Grant**

**Request:** Adopt Resolution No. 6916 authorizing the City to enter into Intergovernmental Agreement (IGA) No. 2006-084-COS between the cities of Scottsdale and Phoenix to enable the City to receive reimbursement of eligible expenditures under FTA Grant No. AZ-90-X074, providing \$2,750,586 for the construction of a Mustang Transit Center and land acquisition for a regional park and ride facility in Scottsdale. The grant was anticipated and included in the adopted capital and operating budgets for fiscal year 2005/06.

**Related Policies, References:** IGA No. 2006-084-COS; City Procurement Code; Code of Federal Regulations

**Staff Contact(s):** Mary O'Connor, Transportation General Manager, 480-312-2334, [moconnor@scottsdaleaz.gov](mailto:moconnor@scottsdaleaz.gov)

**9. Transportation Enhancement Funding for Transportation Capital Improvement Projects**

**Requests:**

1. Adopt Resolution No. 6947 authorizing the City of Scottsdale to apply for two Arizona Department of Transportation (ADOT) Transportation Enhancement Funds grants for a total of \$1,000,000.
2. Authorize the acceptance of the award in the event the applications are successful.

**Staff Contact(s):** Mary O'Connor, Transportation General Manager, 480-312-2334, [moconnor@scottsdaleaz.gov](mailto:moconnor@scottsdaleaz.gov)

**10. Federal Lobbying and Information Services Contract Extension**

**Request:** Approve a one-year extension and modification of Contract No. 2003-122-COS-A1 with Carolyn C. Chaney and Associates to provide federal lobbying and information services on behalf of the City of Scottsdale in the amount of \$73,062, plus up to \$6,000 for reimbursable expenses, which is the same fee structure as FY 2005/06.

**Staff Contact(s):** Bridget Schwartz-Manock, Governmental Relations Director, 480-312-2423, [bschwartzmanock@scottsdaleaz.gov](mailto:bschwartzmanock@scottsdaleaz.gov); Neal Shearer, Assistant City Manager, [nshearer@scottsdaleaz.gov](mailto:nshearer@scottsdaleaz.gov), 480-312-2604

**11. Contract Renewal for Scottsdale's Partnership with Designated Sister Cities**

**Request:** Authorize Contract No. 2006-092-COS for \$10,000 in FY 2006-07, and \$10,000 in FY 2007-08, with the Scottsdale Sister Cities Association, Inc., to promote the City of Scottsdale and the Scottsdale Sister Cities Association, Inc., to strengthen municipal and economic development partnerships between Scottsdale and our existing or newly designated Sister Cities, and to advance cultural and educational exchanges.

**Related Policies, References:** Previous Agreement No. 2004-042-COS, between Scottsdale Sister Cities Association and the City of Scottsdale, which expired June 30, 2006. Scottsdale Revised Code Section 2-189 and related rules.

**Staff Contact(s):** Bridget Schwartz-Manock, Government Relations Director, 480-312-2423, [bschwartzmanock@scottsdaleaz.gov](mailto:bschwartzmanock@scottsdaleaz.gov); Neal Shearer, Assistant City Manager, [nshearer@scottsdaleaz.gov](mailto:nshearer@scottsdaleaz.gov), 480-312-2604

**12. Agreement to Streamline Booking Process**

**Request:** Approving Resolution No. 6952 authorizing the Scottsdale Police Department to enter into Software Development Agreement Contract No. 2006-106-COS with e-Corridor Inc. The purpose of this agreement is to have e-Corridor Inc. modify programs at the Arizona Department of Public Safety and the Maricopa County Sheriff's Office to accept booking information from Scottsdale Police Department's new Records Management System. The dollar value of this proposed agreement is \$50,000.

**Staff Contact(s):** Alan G. Rodbell, Chief of Police, 480-312-1900, [arodbell@scottsdaleaz.gov](mailto:arodbell@scottsdaleaz.gov); Brad Hartig, Chief Information Officer, 480-312-7615, [bhartig@scottsdaleaz.gov](mailto:bhartig@scottsdaleaz.gov)

**13. Authority for Human Resources to Receive Criminal History Information for Employment Purposes**

**Request:** Adopt Ordinance No. 3684, amending Section 14-44 of the Scottsdale Revised Code, which authorizes the Human Resources General Manager to request and receive criminal history information for the purpose of evaluating the fitness of applicants for employment and designated volunteer positions at the City of Scottsdale; and that addresses a technical correction requested by the Department of Public Safety.

**Related Policies, References:** Arizona Revised Statutes 41-1750; Public Law 92-544; Ordinance Nos. 2424 (1/19/93), 2689 (7/18/94), 3078 (11/17/97), 3659 (1/24/06); Scottsdale Revised Code Section 14-41(i)

**Staff Contact(s):** Teri Traaen, Human Resources General Manager, 480-312-2615, [ttraaen@scottsdaleaz.gov](mailto:ttraaen@scottsdaleaz.gov)

**14. Settlement of B&F Contracting, Inc. v. City of Scottsdale**

**Request:** Adopt Resolution No. 6949 authorizing final settlement (Agreement No. 2006-116-COS) in the amount of \$92,000 to resolve a lawsuit entitled *B&F Contracting, Inc. v. City of Scottsdale*, Cause No. CV 2004-018006, currently pending in Maricopa County Superior Court.

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-7794, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov)

**15. Gila River General Stream Adjudication Legal Services Contract**

**Request:** Adopt Resolution No. 6942 authorizing the Mayor to execute Intergovernmental Agreement No. 2003-145-COS-A3, among the cities of Scottsdale, Glendale, Avondale, Mesa and Chandler to provide for joint funding for outside legal counsel in the Gila River General Stream Adjudication, and Agreement No. 2003-144-COS-A3, a contract for legal services that sets forth in detail the terms of the City's representation.

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-7794, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov); Steven Bennett, Deputy City Attorney, 480-312-7737, [sbennett@scottsdaleaz.gov](mailto:sbennett@scottsdaleaz.gov)

**16. Appoint an Acting City Manager in Absence of City Manager**

**Request:** Adopt Resolution No. 6959 appointing an Acting City Manager to serve in the absence of the City Manager and establishing an orderly succession of persons to serve as Acting City Manager.

**Related Policies, References:** Scottsdale City Charter, Article 3, Section 4

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-7794,  
[drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov)

**17. Sponsorship Agreement with Scottsdale Healthcare for Fitness Center at McDowell Mountain Ranch Park and Aquatic Center**

**Request:** Approve Sponsorship Agreement No. 2006-117-COS which names the new fitness center at McDowell Mountain Ranch Park: *Scottsdale Healthcare Fitness Center at McDowell Mountain Ranch Park and Aquatic Center*, and allows Scottsdale Healthcare to provide specialized public programming related to health and wellness in the fitness center.

**Related Policies, References:** Administrative Regulation No. 156; Sponsorship/Naming Rights Proposal

**Staff Contact(s):** Debra Baird, Community Services General Manager, 480-312-2480,  
[dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov)

Mayor Manross opened public testimony.

**Tim Montgomery**, 11820 N 109<sup>th</sup> St, 85259, asked if other groups had been consulted regarding sponsorship of the fitness center. Mr. Montgomery also questioned if the equipment provided by Scottsdale Healthcare would belong to the City, and who would pay for staffing of the fitness facility; and the liability implications.

Mayor Manross closed public testimony. City Manager Jan Dolan explained that the equipment is a donation from Scottsdale Healthcare, which is acceptable under the sponsorship program. The City will be responsible for maintenance and replacement of the equipment.

**18. Intergovernmental Agreement with Scottsdale Unified School District for Maintenance of Youth Sports Fields at School Facilities**

**Requests:**

1. Adopt Resolution No. 6950 authorizing the City to enter into Intergovernmental Agreement No. 2005-023-COS-A1, between the City and the Scottsdale Unified School District, which will allocate City funds to the Scottsdale Unified School District to increase the level of maintenance on sports fields at 10 school sites, and will allow City staff and contractors access to these youth sports fields on School District property for the purpose of periodic field rehabilitation.
2. Approve a \$386,601 budget transfer from the General Fund Operating Budget Contingency to the Community Services Department Account No. 100-05709-52826.

**Related Policies, References:**

- Youth Sports Task Force Report
- Intergovernmental Agreement No. 2000-043-COS ("Master Agreement") between the City and the Scottsdale Unified School District
- Intergovernmental Agreement No. 2005-023-COS, previous maintenance agreement
- June 2, 2006 letter from the Scottsdale Unified School District

**Staff Contact(s):** Debra Baird, Community Services General Manager, 480-312-2480,  
[dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov)

- 19. Soccer Field Lighting at Chaparral Park**  
REMOVED FOR SEPARATE DISCUSSION. SEE BELOW.

**MOTION AND VOTE – CONSENT AGENDA**

COUNCILMAN ECTON MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1 THROUGH 18. COUNCILMAN MCCULLAGH SECONDED THE MOTION, WHICH CARRIED 7-0.

ITEM 19 REMOVED FOR SEPARATE DISCUSSION:

- 19. Soccer Field Lighting at Chaparral Park**  
**Request:** Approve the addition of sports lighting on two soccer fields at Chaparral Park and match funds in the amount of \$200,000 from the Arcadia Scottsdale United Soccer Club in order to design and install the new lights.  
**Related Policies, References:** Partnership Funding Policy  
**Staff Contact(s):** Debra Baird, Community Services General Manager, 480-312-2480, [dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov)

Staff member Judy Weiss provided a presentation outlined as follows:

- Background
- Request - \$200,000 from Arcadia Scottsdale United Soccer Club in Partnership Funding Program to add sports field lighting to the east and south soccer fields
- Lighting - state-of-the-art technology, 7 additional poles needed
- Diagrams depicting locations of light poles

Mayor Manross opened public testimony.

**Alees Seehausen**, 1114 N Winthrop Circle, Mesa, 85213, member of an ASUSC Scottsdale Soccer Team, spoke in support of the lighting project so the fields could be used year-round.

**Keith Glaab**, 8132 E Vista Dr, 85250, spoke in opposition to the lighting because it would create additional traffic in the area. He requested the park be kept as a neighborhood park.

**Scott Graham**, 10651 E San Salvador Dr, 85258, ASUSC Soccer, said the number of soccer players in the league would not increase with the installation of the lights. Mr. Graham said that the six-hundred players in the competitive group need the ability to practice in the evening throughout the year. Currently, only one field is available in the evening, and subsequently gets a lot of wear and tear.

**Janis Anderson**, 5201 E Shangri-La Rd, 85254, ASUSC Soccer, said traffic and parking have never been an issue during the soccer games because there is good access off of Jackrabbit and Hayden roads. She believes additional lights will benefit all patrons of the park.

**Jeff Holseweh**, 8501 E Earle Dr, 85251, ASUSC Soccer, said additional lighting will spread out the wear and tear of the grass to other fields, and will increase the value of the park.

**Ed Straker**, 5512 E Calle Media, 85018, ASUSC Soccer, spoke in support of the lights and said there are not enough fields to meeting current demand. He believes the new light technology will be non-intrusive to neighboring yards.

**Jack Wambaugh**, 11600 N 99<sup>th</sup> St, 85260, said he doesn't like playing soccer in the dirt, and urged Council to vote for the lights.

**Monica Wambaugh**, 11600 N 99<sup>th</sup> St, 85260, said the baseball fields and dog park at Chaparral Park are lighted, and encouraged Council to provide lighting for all sports, including soccer.

**Daniel Torrens**, 5319 N 81<sup>st</sup> Pl, 85250, spoke in opposition to additional lighting at Chaparral Park, and discussed detrimental effects including parking problems, noise, and trash. Mr. Torrens believes the park is currently at maximum usage, and that balance should be provided for all users of the park.

**Les Hurst**, 8144 E Vista Dr, 85250, objected to more lights at Chaparral Park, pointed out parking problems on Vista Drive, and expressed his belief that the park is already overloaded.

**Larry Sifert**, 6917 N. Rocking Rd, 85250, suggested that there is a discrepancy between how the northern and southern portions of the City are treated, and stated that Cactus Park has room for soccer fields. Mr. Sifert believes preferential treatment is being given to the soccer club.

Mayor Manross closed public testimony.

Council/Staff discussion:

- Staff verified the fields are used on weekends for adult soccer, rugby, and other types of public use.
- There was a discussion regarding the three additional poles on the east side. Staff clarified that the design has not been completed, so there may be changes to locations of poles based on spill and glare control. The lighting design will go before the Design Review Board for approval.
- Staff verified that lights on the west soccer field would be upgraded, resulting in a significant reduction of light spillage and glare.
- It was noted that parks close at 10:30 PM, and that lights are allowed to remain on until 11:00 PM, but are usually off by 10:00 PM.
- Discussion was held regarding the Field Allocation Policy for use of the fields.
- Council agreed that, regardless of lighting issues, neighborhood concerns about noise, parking, and trash need to be addressed.
- Vice Mayor Lane agreed that Chaparral Park seems to be overburdened, and sees a quality of life issue for the residents. Staff verified that no other new facilities are planned for Chaparral Park, only enhancements to current facilities.

**MOTION AND VOTE – ITEM 19**

COUNCILMAN LITTLEFIELD MOVED TO APPROVE ITEM 19, SOCCER FIELD LIGHTING AT CHAPARRAL PARK, WITH MATCHING FUNDS IN THE AMOUNT OF \$200,000 FROM ARCADIA SCOTTSDALE UNITED SOCCER CLUB. COUNCILMEMBER DRAKE SECONDED THE MOTION WITH THE UNDERSTANDING THAT ALL SOCCER FIELD LIGHTS ARE UPGRADED AND REPLACED.

AT THE REQUEST OF COUNCILMAN NELSEN, THE MOTION WAS AMENDED TO STIPULATE THAT LIGHTS ARE OFF BY 10:00 PM.

THE MOTION, AS AMENDED, CARRIED 7-0.



## **REGULAR AGENDA      ITEMS 20-21**

### **20.      Colaric Abandonment**

#### **Requests:**

1. Abandon 752.50 feet of right-of-way along the 12-foot wide alley located at the rear of Lots 10 through 15 of Villa Arcadia Two.
2. Abandon 174 feet of right-of-way along the 12-foot wide alley located west of Lot 10 of Villa Arcadia Two.
3. Abandon 183.55 feet of right-of-way along the 16-foot wide alley located east of Lot 15 of Villa Arcadia Two.
4. Adopt Resolution No. 6919 vacating and abandoning a public right-of-way.

**Location:** 6446 – 6532 E. Calle Del Media

**Related Policies, References:** 20-AB-2005; General Plan; Master Circulation Plan

**Staff Contact(s):** Frank Gray, General Manager Planning and Development Services, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

Chief Planning Officer Randy Grant said all parties have come to an agreement regarding the abandonment, and referenced a memo of revised alternative conditions (attached). Once Council has approved the abandonment, the agreement will be signed and completed.

In response to a question from Councilmember Drake, Frank Gray, Planning and Development Services General Manager, verified there is no existing policy regarding alleyways, but that it is not a large scale problem. Councilmember Drake suggested that staff investigate the possibility of a simple adjustment to the policy, which might help avoid some of the difficulties faced in this case.

### **MOTION AND VOTE – ITEM 20**

COUNCILMAN MCCULLAGH MOVED TO APPROVE ITEM 20, INCLUDING RESOLUTION NO. 6919. COUNCILMAN LITTLEFIELD SECONDED THE MOTION, WHICH CARRIED 7-0.

### **21.      SkySong Lease Amendment**

**Request:** Adopt Resolution No. 6958 authorizing Agreement No. 2004-119-COS-A1, an amendment to the ground lease between the City and Arizona State University Foundation L.L.C., to allow for the addition of residential uses at the SkySong project at the southeast corner of Scottsdale Road and McDowell Road.

#### **Related Policies, References:**

- Agreement No. 2004-119-COS, existing ground lease, effective date of August 9, 2004
- ASU Scottsdale Ad-Hoc Task Force "Design Guidelines and Development Framework for the ASU-Scottsdale Center for New Technology and Innovation and the Surrounding Area" report issued February 2005
- ASU-Scottsdale Center for New Technology and Innovation zoning approval Case No. 26-ZN-2005, approved June 21, 2005

**Staff Contact(s):** Ed Gawf, Assistant City Manager, 480-312-4510, [egawf@scottsdaleaz.gov](mailto:egawf@scottsdaleaz.gov); David Roderique, Economic Vitality General Manager, 480-312-7601, [droderique@scottsdaleaz.gov](mailto:droderique@scottsdaleaz.gov)

Assistant City Manager Ed Gawf and Economic Vitality General Manager David Roderique provided a presentation outlined as follows:

- Tonight's request to authorize amendment to the ground lease between the City and ASU Foundation to allow for the addition of residential uses at SkySong
- Background information
- Zoning approval and development framework plan
- Phase I and II approvals
  - Construction of two 157,000 square-foot buildings
  - Addition of center plazas and relocation of SkySong above center plazas
  - Temporary parking facilities (possible structure)
  - Infrastructure for entire project
- Phase III residential request
  - Modify lease to allow residential (zoning already allows residential)
  - Construction of 325 residential units
  - 900-1,000 space parking structure for office and residential
  - Market rate housing
- Key terms and conditions of proposed lease amendment
  - Residential permitted, in addition to the currently required 1.2M square feet of commercial space, 60-foot maximum height
  - Type of residential. Must be designed, built, marketed, and operated as "market-rate" housing for the general public
  - Residential phasing. Initial residential phase is limited to 325 units. Future additions (up to the maximum allowed by zoning) would be allowed only as commercial space is built – one residential unit for each additional 1,000 sf of office/retail space after the initial development phases.
  - City costs. No costs of any kind relating to the residential will be borne by the City, or be part of the City's infrastructure cap of \$44.5M. Additionally, the City's costs relating to the initial parking structure are capped at \$12,000 per space, even though current construction estimates are significantly higher.
  - City revenues. The amendment would provide two opportunities for the City to participate in the residential project. For each residential unit developed, the City will receive \$9,200 up front, to be credited against the infrastructure cap. In addition, the City can share in future net revenues from a sale of the complex over \$40,000 per unit, on a 50/50 basis.
  - Two suggested changes were provided this afternoon: 1) *"Notwithstanding anything to the contrary in this section, no residential phase beyond the first residential phase of 325 units may be constructed without the prior approval of the Scottsdale City Council. Landlord shall cause any request for such approval to be agendized and considered expeditiously."* In essence what this is saying is that even though the zoning on the site would allow 805 units, only the first 325 would be approved as part of this lease amendment. 2) *"Design, construction and other development costs of the residential units, including the unit amounts, as provided below, shall be subtracted in calculating net revenue for residential units under paragraph 5.1."* This was the intent of the parties; it simply wasn't clarified in the lease.
  - Potential City revenues: \$5.11 M for initial 325 units and \$12.63 M if maximum of 805 units is reached. Infrastructure cap reduced to \$41.51M with 325 units built
- Public process
- Summary of key issues

Steve Evans, Trustee of the ASU Foundation, provided the following information:

- SkySong is significantly ahead of schedule. Therefore, they would like to accelerate construction of the parking structure, and, because it will surround the parking structure, build the residential at the same time.
- When the lease was created, the property was zoned as a mall. Zoning for residential was approved much later, and now the goal is to conform the lease to the zoning.

Mayor Manross opened public testimony:

**George Knowlton**, 8701 E Valley View Rd, 85250, spoke in opposition to the lease amendment saying it is a bad deal financially for the City. He disagreed that the project is ahead of schedule as nothing has taken place on the property yet. Mr. Knowlton expressed concern because the lease allows for apartments to be rented as soon as office buildings have been issued shell certificates of occupancy. Mr. Knowlton believes Council has taken unfair advantage of citizens.

**Joel BramOweth**, 7239 E Valley View Rd, 85250, spoke in opposition, saying he saw no good reason for supporting the apartments. Mr. BramOweth believes the land is much better suited for office and retail, as originally promoted in the goals for SkySong.

**Richard Mueller**, 960 N 87<sup>th</sup> Way, 85257, urged Council to wait for a couple of years before considering a residential project to see if ASU performs as expected. Mr. Mueller asked what the City's liability would be for people living on City property.

**Cary Ley**, 2571 N Miller Rd, 85250, spoke in support of the lease amendment. Mr. Ley mentioned that the parking will be upgraded as a result of the amendment, and there will be increased revenue projects for the City. Additionally, he noted that the possibility of a residential component has been part of discussions since the beginning of the project.

**William Lindley**, 8550 E McDowell, #245, 85257, would like to see the project become a true mixed-use facility, and Scottsdale Road become vibrant with light rail and residential use.

**Darlene Petersen**, 7327 E Wilshire Dr, 85257, spoke in opposition to the lease amendment, and believes the parking garage can be built without the residential component.

**James McCay**, 2647 N Miller Rd, #21, 85257, urged careful consideration and further debate. Mr. McCay suggested reverting attention back to technology and innovation, focusing on the long term, and amending the lease to permit residential use with green building provisions.

**Lyle Wurtz**, 6510 E Palm Ln, 85257, expressed concern that SkySong will not rejuvenate southern Scottsdale, that it is a commercial venture subsidized by taxpayers, and that ASU has not kept any of their promises.

**Timothy White**, 1212 N Miller Rd, #2, 85257, urged Council to move forward. Mr. White said he is saddened to see resistance to the project.

**Wellington Reiter**, ASU College of Design, Tempe, said the team originally suggested that residential would make the project something other than an office park. Approving the lease amendment will help to transform the entire complex.

**Kevin O'Neill**, 7955 E Via Sierra, 85258, said, as a citizen, a commercial property owner, a former Development Review Board member, and Planning Commissioner, he supports the project and the amendment to the lease.

**Jim Cramer**, 9064 E Palm Tree Dr, 85255, Ad Hoc Citizens Work Group, said the residential component was discussed quite often during the Work Group's meetings and was part of the framework of the project. Mr. Cramer believes it is a positive step to build the residential and parking garage together.

**Tom Sadvary**, Scottsdale Healthcare, 3622 N Wells Fargo Av, 85251, supports residential use at SkySong, and said it will provide viable housing alternatives for employees of Scottsdale Healthcare. He asked that Council not forget the objective of creating accessible housing for the community as part of the City's revitalization efforts.

**Barbara Cawthorne**, 8720 E Forest Dr, 85257, suggested studying traffic impacts to the area after creating the mixed use, and then evaluating the possibility of more units.

**Mark Bauer**, CB Richard Ellis Co., 2415 E Camelback Rd, 85016, marketer for SkySong, said tenants are looking for mixed use developments. He urged construction of the parking structure now, so tenants wouldn't have to go through construction later.

**Paula Waybright**, 8118 E Sheridan St, 85257, spoke in opposition to providing housing to ASU students and giving inflated profit to developers. She said people feel manipulated, and she does not believe the project is good for Scottsdale.

**John Washington**, 3518 N Chambers Ct, 85251, urged Council to take more time to look at the proposal, and saw no reason to approve the amendment right now.

**Robert Bachman**, 7904 E Pecos Ln, 85250, said he supports the plan, but asked if funds are available to pay for the sewer, water, and electrical infrastructure.

Mayor Manross closed public testimony. Six additional comment cards were received from citizens not wishing to speak: five in favor and one in opposition to the lease amendment.

Council/Staff discussion:

- Staff verified that an insurance clause of \$5M and a standard hold harmless clause are included in the lease, which shifts liability from the City to the developer.
- Staff verified all infrastructure costs will be paid by SkySong.
- Staff provided the reasoning for a portion of the amendment regarding residential occupancy, when a shell certificate of occupancy is issued for the commercial building: Should the residential project be finished, it is preferred that the units not remain empty while the office project is being completed. Staff stated, however, that the completion of the office space is expected to precede the completion of the residential component.
- Some Council members expressed strong support for the residential component, as it will add life to the area.
- Some Council members expressed confidence that the City Manager and staff have negotiated the best deal for the City, and that the project will be successful.
- Councilman Littlefield believes open space on the site will be lost, that there should be no rush to approve the amendment, and that Council should wait to see the design of the apartments before giving approval.

- Councilman McCullagh believes the profits should be split 50/50. He suggested reducing the secondary profit of the City, and keeping the \$9,200 per unit credit on the front end.
- Councilman McCullagh urged the Development Review Board to work to ensure the project is an iconic development that will be recognized around the world.
- Vice Mayor Lane said the residential component could potentially achieve the desired results to have a viable and sustainable site, revitalize the neighborhood, and provide knowledge workers. He believes delays would only have a detrimental effect, and did not want to do anything to defeat the project.
- Councilman Nelssen would like more assurance, and prefers that Council take a few more weeks to get definitive answers. Although he believes residential use makes sense, he is concerned because the site was not promoted with that component included.

### **MOTION AND VOTE – ITEM 21**

COUNCILMAN ECTON MOVED TO ADOPT RESOLUTION NO. 6958, WITH THE AMENDMENTS TO THE AGREEMENT THAT WERE PRESENTED TONIGHT. COUNCILMEMBER DRAKE SECONDED THE MOTION.

COUNCILMAN LITTLEFIELD MOVED TO AMEND THE MOTION BY REMOVING THE PORTION OF PARAGRAPH 1.5 OF THE LEASE AMENDMENT THAT ALLOWS THE CITY MANAGER TO ISSUE A CERTIFICATE OF OCCUPANCY EVEN IF THE CONDITIONS OF THE LEASE AREN'T MET. COUNCILMAN NELSEN SECONDED THE AMENDMENT, WHICH FAILED 2-5, WITH MAYOR MANROSS, VICE MAYOR LANE, COUNCILMEMBERS DRAKE, ECTON, AND MCCULLAGH DISSENTING.

COUNCILMAN MCCULLAGH MOVED TO AMEND THE MOTION TO SHARE THE PROFITS 50/50. COUNCILMAN LITTLEFIELD SECONDED THE AMENDMENT, WHICH FAILED 3-4, WITH MAYOR MANROSS, VICE MAYOR LANE, COUNCILMEMBERS DRAKE AND ECTON DISSENTING.

THE MOTION TO ADOPT RESOLUTION NO. 6958, WITH THE AMENDMENTS TO THE AGREEMENT THAT WERE PRESENTED TONIGHT, CARRIED 5-2, WITH COUNCILMEN LITTLEFIELD AND NELSEN DISSENTING.

### **MAYOR AND COUNCIL ITEMS      ITEM 22**

#### **22.      City Treasurer**

**Request:** Consider and assess position and appointment of City Treasurer.

**Related Policies, References:** Scottsdale City Charter, Article 3, Sections 1 and 3; Article 4, Sections 1 and 3; and Article 6, Sections 3 and 11. Scottsdale Revised Code, Sections 2-91, 2-92, 2-131, 2-132, 2-133, 2-134, 2-135, and 2-153.

Council/Staff discussion:

- Councilman Nelssen requested more time be given for research, history, and development of a job description by staff.
- Councilman Nelssen also suggested that Human Resources, the City Manager, and other appropriate staff provide a wide variety of alternatives. He suggested the alternatives consider whether the position should serve as a taxpayer watchdog or a financial analyst in order to make the position most efficient.

- Councilman Ecton pointed out that a job description is provided in the City Charter, and that much research has been done by staff. He said there is no reason to delay the discussion.
- Mayor Manross stated that with the City's healthy financial condition, and the fact that no other Valley city has this financial position answering directly to elected officials, she saw no reason to fix something that is not broken.
- Other Council members believe more discussion is warranted to truly understand the pros and cons of the issue, and saw no harm in bringing the item back.

### **MOTION AND VOTE – ITEM 22**

COUNCILMAN NELSEN MOVED TO CONTINUE ITEM 22 TO SEPTEMBER 19, 2006 WITH FURTHER ANALYSIS TO BE PROVIDED. COUNCILMAN LITTLEFIELD SECONDED THE MOTION, WHICH CARRIED 5-2, WITH MAYOR MANROSS AND COUNCILMAN ECTON DISSENTING.

### **MAYOR AND COUNCIL ITEMS**

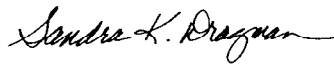
Vice Mayor Lane requested that appointments be made to the subcommittee positions vacated by former Councilman Osterman. Mayor Manross responded that this will be done soon.

### **CITY MANAGER'S REPORT - None**

### **ADJOURNMENT**


With no further business to discuss, the meeting adjourned at 9:44 P.M.

#### **SUBMITTED BY:**



**Sandy Dragman**  
Recording Secretary

#### **REVIEWED BY:**



**Carolyn Jagger**  
City Clerk

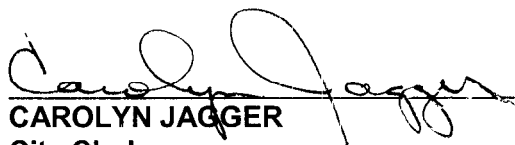
Officially approved by the City Council on August 8, 2006

### CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the City Council of Scottsdale, Arizona held on the 10th day of July 2006.

I further certify that the meeting was duly called and held, and that a quorum was present.

**DATED** this 8<sup>th</sup> day of August 2006.

  
\_\_\_\_\_  
**CAROLYN JAGGER**  
City Clerk

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July 10, 2006

TO: Honorable Mayor Manross and City Council

FROM: Frank Gray, General Manager – Planning & Development Services

**RE: REVISED ALTERNATIVE CONDITIONS – 20-AB-2005**

**REVISED  
ALTERNATIVE  
CONDITIONS**

It is anticipated that there will be a written agreement between neighbors prior to the City Council hearing. Should City Council approve the abandonment, staff recommends the following stipulations be applied:

1. Submit a signed and notarized private access agreement between neighbors residing on lots; 1, 2, 13, 14, and 15 of Villa Arcadia Two and Lot 4 of Lombardi Estates prior to the recording of the resolution. This agreement will be recorded concurrent with the resolution for abandonment.
2. Identify in the private access agreement all landowners who will have access to this private easement.
3. Submit a legal description and graphic of the location of gate on the private access. This graphic shall be an attachment to the private access agreement.
4. Submit an updated title report no older than 30 days for lots 1, 2, 10, 11, 12, 13, 14, and 15 of Villa Arcadia Two subdivision prior to the recording of the resolution.
5. The alley will remain public until all stipulations have been satisfied.